

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ALEXANDER ROY SINCLAIR,

Petitioner,

v.

LINDA CLARK, et. al.,

Respondents.

No. 2:24-cv-00038-TLN-EFB

**ORDER**

On August 18, 2025, the Ninth Circuit remanded the instant action for the limited purpose of granting or denying a certificate of appealability. (ECF No. 16.) For the following reasons, the Court DECLINES to issue a certificate of appealability.

On January 8, 2024, Petitioner Alexander Roy Sinclair (“Petitioner”), a county jail prisoner proceeding pro se, filed a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (ECF No.

1.) On August 26, 2024, the assigned magistrate judge ordered Petitioner to either pay the appropriate filing fee or file an application to proceed in forma pauperis within thirty days. (ECF No. 4.) The magistrate judge further dismissed the petition with leave to amend for failing to clearly state the relief sought in a short and plain statement. (*Id.* at 1–2.) The thirty days lapsed, and Petitioner did not pay the filing fee, file an in forma pauperis application, or file an amended

1 petition. On March 27, 2025, the magistrate judge then issued findings and recommendations to  
2 dismiss the petition without prejudice for failure to respond to the court's August 26, 2024 order  
3 and failure to state a cognizable claim. (ECF No. 8.) This Court subsequently adopted these  
4 findings in recommendations in full. (ECF No. 10.) Petitioner appealed. (ECF No. 12.)

5 A petitioner seeking a writ of habeas corpus does not have an absolute right to appeal —  
6 an appeal is only allowed under certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–  
7 36 (2003). A certificate of appealability will only issue if a petitioner makes “a substantial  
8 showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). This requires the  
9 petitioner to demonstrate that “jurists of reason could disagree with the district court’s resolution  
10 of his constitutional claims or that jurists could conclude the issues presented are adequate to  
11 deserve encouragement to proceed further.” *Miller*, 537 U.S. at 327.

12 Here, the Court finds reasonable jurists would not find the Court’s decision to dismiss  
13 Petitioner’s claims without prejudice to be debatable or conclude this petition should proceed  
14 further. Accordingly, the Court DECLINES to issue a certificate of appealability.

15 IT IS SO ORDERED.

16 Date: August 21, 2025



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18 TROY L. NUNLEY  
19 CHIEF UNITED STATES DISTRICT JUDGE  
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